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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,243	01/22/2002	Maurice Israel	033532-001	8007

7590 04/10/2007

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EXAMINER	
MCINTOSH III, TRAVISS C	
ART UNIT	PAPER NUMBER
1623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/051,243	ISRAEL ET AL.	
	Examiner	Art Unit	
	Traviss C. McIntosh	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9,10 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9,10 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/19/2007 has been entered.

Remarks drawn to rejections of Office Action mailed 6/6/2006 include:

103(a) rejections: which have been maintained in part for reasons of record, and withdrawn in part.

An action on the merits of claims 9, 10, and 12 is contained herein below. The text of those sections of Title 35, US Code which are not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

The rejection of claims 9, 10, and 12 under 35 U.S.C. 103(a) as being unpatentable over Blache et al. (US 5,523,322) in view of Neiva et al. ("Aluminum induces lipid peroxidation and aggregation of human blood platelets", Brazilian Journal of Medical and Biological research, vol. 30, pp. 599-604, 1997) is withdrawn as applicants showing that no link between platelet aggregation and Alzheimer's disease was seen to be known at the time of the invention.

The rejection of claims 9, 10, and 12 under 35 U.S.C. 103(a) as being unpatentable over Blache et al. (US 5,523,322) in view of Neu et al. ("Platelet aggregation and multiple sclerosis", Acta neurol. scandinav., vol. 66, pp. 497-504, 1982) is maintained for reasons of record.

Claims 9, 10, and 12 are drawn to methods of treating various diseases or conditions associated with the excessive release of glutamate, optionally being multiple sclerosis (MS), using compounds of formula I or II.

Blache et al. teach methods of inhibiting blood-platelet aggregation with compounds of formula I or II. What they do not teach is treating MS.

Neu et al. teach that platelet aggregation occurs in MS patients (abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to administer the naphthoquinone derivatives of Blache et al. to treat MS with these references before them. The logic flows from the fact that Blache et al. teach that the compounds are capable of inhibiting platelet aggregation and Neu et al. teach that platelet aggregation occurs in MS patients. One would have been motivated to use the compounds in the methods of treating MS as the compounds are known to inhibit platelet aggregation and platelets are known to aggregate in MS patients.

Applicant's arguments filed 11/6/2006 have been fully considered but they are not persuasive. Applicants argue that while Neu states "An increased tendency to spontaneous aggregation of the blood platelets of MS patients could also be demonstrated", and that Neu hypothesized platelet aggregation could be demonstrated but did not show it. This is not found

persuasive. The fact that Neu showed MS patients had platelet aggregation compared to the control group is enough to make it obvious to treat an MS patient with a vasodilator, such as those taught by Blache et al. Applicants arguing that Blache does not mention MS is not seen to be convincing, as this is seen to be arguing the references individually. Neu et al. is seen to teach that platelet aggregation occurs in MS patients, and Blache teaches their compounds inhibit platelet aggregation, as such, it would be prima facia obvious to treat the platelet aggregation in an MS patient with an agent capable of inhibiting platelet aggregation. Moreover, because platelet aggregation is not the underlying cause of MS, does not mean that a skilled artisan would not provide an agent to an MS patient to treat a known MS symptom.

The rejection of claims 9, 10, and 12 under 35 U.S.C. 103(a) as being unpatentable over Blache et al. (US 5,523,322) in view of Lechner et al. ("Parkinson's with a high vascular risk – Lechner-Ott Syndrome", Wiener medizinische Wochenschrift, vol. 136, no. 15-16, pp. 387-91, 1986) is maintained for reasons of record.

Claims 9, 10, and 12 are drawn to methods of treating various diseases or conditions associated with the excessive release of glutamate, optionally being multiple sclerosis (MS), using compounds of formula I or II.

Blache et al. teach methods of inhibiting blood-platelet aggregation with compounds of formula I or II. What they do not teach is treating MS.

Lechner et al. teach that platelet aggregation occurs in Parkinsonism patients (abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to administer the naphthoquinone derivatives of Blache et al. to treat Parkinson disease with

these references before them. The logic flows from the fact that Blache et al. teach that the compounds are capable of inhibiting platelet aggregation and Lechner et al. teach that platelet aggregation occurs in Parkinson patients. One would have been motivated to use the compounds in the methods of treating Parkinson as the compounds are known to inhibit platelet aggregation and platelets are known to aggregate in Parkinson patients.

Applicant's arguments filed 11/6/2006 have been fully considered but they are not persuasive. Applicants argue that the Parkinson's disease of Lechner was as specific type of Parkinson's with a vascular risk. However, the instant claims are drawn openly drawn to Parkinson's, and therefor include this vascular form. The fact that Lechner showed PD patients had platelet aggregation is enough to make it obvious to treat an PD patient with a vasodilator, such as those taught by Blache et al. Applicants arguing that Lechner does not mention MS is not seen to be convincing, as this is seen to be arguing the references individually. Lechner et al. is seen to teach that platelet aggregation occurs in PD patients, and Blache teaches their compounds inhibit platelet aggregation, as such, it would be prima facia obvious to treat the platelet aggregation in a PD patient with an agent capable of inhibiting platelet aggregation. Moreover, because platelet aggregation is not the underlying cause of PD, does not mean that a skilled artisan would not provide an agent to a PD patient to treat a known PD symptom.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C. McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Traviss McIntosh
March 24, 2007

Shaojia A. Jiang
Supervisory patent Examiner
Art Unit 1623

3/29/07